

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Norfolk Division**

CSX TRANSPORTATION, INC.,  
individually and on behalf of NORFOLK  
& PORTSMOUTH BELT LINE  
RAILROAD COMPANY,

Plaintiff,

v.

Civil Action No. 2:18-cv-530-MSD-RJK

NORFOLK SOUTHERN RAILWAY  
COMPANY, *et al.*,

Defendants.

/

**CSX TRANSPORTATION INC.'S RESPONSE TO DEFENDANTS'  
JOINT NOTICE OF REQUEST FOR COURT STATUS CONFERENCE**

NOW COMES Plaintiff CSX Transportation, Inc. (“CSX”), by counsel, and submits its response to the Joint Notice of Request for a Court Status Conference (the “Notice”) filed by Defendants Norfolk Southern Railway Company and Norfolk & Portsmouth Belt Line Railroad Company (collectively, “Defendants”). *See* ECF No. 402. CSX believes Defendants’ request for a status conference is premature, and may not be necessary if the parties agree on and submit an amended scheduling order, as counsel have discussed.

CSX filed this action on October 4, 2018. It has proceeded through extensive discovery and motions for summary judgment are fully briefed. This Court referred questions to the Surface Transportation Board (“STB”), and stayed this action pending that referral. The STB has decided the referred questions and CSX promptly provided the Court notice of the STB’s determinations. Immediately after the STB decision, the parties conferred and, with the Court’s assistance, agreed

upon a new trial date of January 18, 2023, the earliest available date. The Court is in the process of confirming that trial date and verifying available dates for the final pretrial conference.

CSX has discussed with Defendants that once the foregoing dates are confirmed, counsel should conduct an attorneys' conference to discuss and draft an amended scheduling order for submission to the Court. The amended scheduling order would account for completion of briefing on the various pending but not fully briefed motions, any additional pre-trial motions, and provide timetables for the other issues raised by Defendants in their Notice, without the need for the Court's intervention. Obviously, the proposed amended scheduling order is subject to the Court's approval; after receiving it, if the Court decides a scheduling conference, held by electronic means or in person, is needed, counsel are ready to attend and address any issues the Court raises.

At present, though, there is no dispute or disagreement among the parties as to scheduling or case management; the parties worked together to secure a new trial date, as directed by the Court. Should the Court decide a status conference is necessary, CSX is delighted to participate, either in person or remotely. CSX seeks only to move this matter forward to trial, in a timely manner, and without unnecessarily burdening the Court.

Dated: July 20, 2022

Respectfully submitted,

**CSX TRANSPORTATION, INC.**  
*By Counsel*

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**CERTIFICATE OF SERVICE**

I certify that on this 20th day of July, 2022, a true and correct copy of the foregoing was served on all counsel of record via Notice of Electronic Filing by filing with the Court's CM/ECF system.

/s/ Robert W. McFarland

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